

D R A F T

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2017-

RE-ADOPTING DRINKING WATER FEE REGULATIONS IN TITLE 22, SECTIONS 64300, 64305, 64310, AND 64315 OF THE CALIFORNIA CODE OF REGULATIONS.

WHEREAS:

1. The State Water Board is responsible for administering the Safe Drinking Water Act (Drinking Water Program). The Safe Drinking Water Act (Health and Safety Code, §116270 et seq.) (SDWA) requires that all persons who supply water for human consumption and meet the law's definition of "public water system" obtain a domestic water supply permit and submit an annual fee to the State Water Board.
2. On June 24, 2015, State Bill 83 (2015) was chaptered requiring the State Water Board to adopt a new fee schedule in regulation to support the Drinking Water Program.
3. Health and Safety Code (HSC) Section 116565, subdivision (d) requires that the fee schedule initially be set through the regular rulemaking process and that, thereafter, amendments and adjustments to the schedule shall be done as emergency regulations that are not subject to review by the Office of Administrative Law.
4. The proposed regulations (Drinking Water Fee Regulations) establish a schedule of annual fees to be paid by public water systems.
5. The proposed Drinking Water Fee Regulations include a provision allowing community water systems that serve disadvantaged communities to pay a reduced fee.
6. The Drinking Water Fee Regulations include a provision authorizing State Water Board to extend the deadline for payment of the annual fee upon a showing of good cause.
7. State Water Board staff will maintain the Division of Drinking Water's staff time accounting system through this fiscal year, at least, to help inform the Board, staff, public water systems and stakeholders on how the Division of Drinking Water's staff time and resources are being allocated.
8. The Drinking Water Fee Regulations will be contained in Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations.
9. The 45-day public notice period for the proposed amendments closed on June 22, 2016, and a public hearing was held on that date. Responses to all timely comments and three late comments received on the proposed regulations ~~will be~~are contained in the Final Statement of Reasons.

D R A F T

10. The State Water Board published and distributed a Notice of Modification to Text of Proposed Regulation and the modified text of the proposed regulation in underline and strikeout on July 14, 2016 for a 15-day comment period ending on July 29, 2016. Responses to all comments received pertaining to the proposed modifications ~~will be~~are contained in the Final Statement of Reasons.
11. On September 20, 2016, the State Water Board adopted Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations.
12. On September 20, 2016, the State Water Board adopted Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations. After the regulations were adopted, the State Water Board added a document to the rulemaking file, entitled "Drinking Water Fees – Basis for Establishing Fees." On January 23, 2017, the State Water Board issued a Notice of Addition of Document to File and Clarification of Text, and Notice of Opportunity to Comment on Proposed Drinking Water Fee Regulations. The clarification related to section 64315, and the fact that the text conflicted with the Notice of Proposed Rulemaking and Initial Statement of Reasons; however, no proposal was made to amend the text.

The Notice of Addition of Document to File and Clarification of Text, and Notice of Opportunity to Comment on Proposed Drinking Water Fee Regulations provided for an additional comment period, which began on January 23, 2017 and ended on February 8, 2017. Three comments were received. The Board Members have reviewed the document entitled "Drinking Water Fees – Basis for Establishing Fees," the Notice of Addition of Document to File and Clarification of Text, and Notice of Opportunity to Comment on Proposed Drinking Water Fee Regulations, and the three comments that were received, and concluded that no State Water Board is making no changes to the regulations text are necessary in response to the three comments. The Board members have also concluded but is making that two nonsubstantive changes should be made to the text. Responses to all comments received pertaining to the Notice issued on January 23, 2017 ~~will be~~are contained in the Final Statement of Reasons.

13. The California Environmental Quality Act (CEQA) provides a statutory exemption for the review and modification of charges by public agencies. Specifically, Public Resources Code Section 21080 (b)(8) provides for such statutory exemption if the public agency finds that such charges "are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter."

D R A F T

14. The State Water Board finds that the charges identified in Title 22, Division 4, Chapter 14.5, of the California Code of Regulations, are for the purpose of: meeting operating expenses, including employee wage rates and fringe benefits; purchasing or leasing supplies, equipment, or materials; and meeting financial reserve needs and requirements.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board re-adopts [Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations.](#)
2. The State Water Board determines that adoption of Title 22, Division 4, Chapter 14.5, Sections 64300, 64305, 64310, and 64315 of the California Code of Regulations is statutorily exempt from CEQA for the reasons given above, and directs the State Water Board staff to prepare and submit to the State Clearinghouse a Notice of Exemption reflecting this determination.
3. The State Water Board Executive Director shall sign the form 400 and the State Water Board staff shall submit the adopted regulations and supporting documentation to Office of Administrative Law (OAL) for review and filing with the Secretary of State; and
4. If, prior to the OAL filing the regulations with the Secretary of State, State Water Board staff, the State Water Board, or OAL staff determine that non-substantive corrections to the regulations or supporting documentation are needed to facilitate the review process, the State Water Board Executive Director may make such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 4, 2017.

Jeanine Townsend
Clerk to the Board